

MANDATE

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 30th day of June, two thousand twenty-three,

Before: Denny Chin,
Susan L. Carney,
Steven J. Menashi,
Circuit Judges.

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IN RE: M/V MSC FLAMINIA

Stolt Tank Containers B.V., Stolt-Nielsen USA, Inc., Deltech Corporation,

Plaintiffs-Claimants-Appellants,

JUDGMENT

Docket Nos. 18-2974(L),
18-3083(Con)

ArcelorMittal, SNF Holdings, Flomin, Inc., SNF Saint Avold, SNF SAS, Roam Global Logistics LLC, Tetra Technologies Norge, Milliken & Company, Ahlers EDC, Steinweg Handelsveem, CISC Liggett-Ducat, British American Tobacco PLC, LLC, Petroresurs, United Transport Tankcontainers BV, General Mills UK, Ayecue Internacional S.L.U., C.H. Robinson International Inc., C.H. Robinson Poland S.P ZO.O, Line X Acquisition LLC, Clariant Corporation, Panalpina, Inc., Potter Group, Ltd., Clariant Production, UK Ltd., Panalpina World Transport Ltd., Ecolab Inc., Nalco Company, Eastman Chemical Company, Rauan Nalco LLC, Mexpack International Movers S.A. deC., NSB Niederelbe Schiffahrtsgesellschaft MBH & Co KG, as operator, of the vessel MSC FLAMINIA, Mueller Water Products, Inc., Rim Logistics, Ltd., VCK Rotterdam BV, Protim Solignum Ltd., GP Cellulose GMBH, GP Harmon Recycling LLC, Eagle Paper International, Inc., Trouw Nutrition USA, LLC, Cheng Loong Corporation, Indemnity Insurance Company of North America, Ace European Group Ltd., Ace Seguros S.A., Alcan Automotive LLC, RLI Insurance Company, Senator International Ocean LLC, Plastic Omnium Automotive Exterior, Borbet, IAC Spartanburg, Behr Industries, Mubeca Inc., Carcoustics USA Inc., Lear Corporation, Magna Exteriors and Interiors, Proper Polymers, Excell USA Inc., TI Automotive, Draexlmaier Automotive America, BMW Group Plan 2.7, BMW AG Werk 2.7, Gulbrandsen Chemicals Inc., Novozymes, Newport Tank Containers Inc., Huntsman

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Petrochemical LLC, Graftech Switzerland S.A., Network America Lines, Graftech Mexico, Brokmak OU, Graftech France SNC, Huntsman Holland B.V., Deltech Corporation, Deltech Europe Ltd., Nuco Logistics, Inc., ARR-MAZ Custom Chemicals Inc., Triple F. Logistics B.V., Cray Valley USA Inc., CJ Hendricks B.V., The Lubrizoil Corporation, Lubrizoil France SA, Bercen Inc., Selluken AB, Hellas S.A., Bulkhaul (USA) Inc., ADPO NV, Bulkhaul Limited, National Union Fire Insurance Company of Pittsburgh, PA., Chartis Seguros Mexico, S.A. de C.V., AMI Trading (USA), Inc., Jewometaal Stainless Processing, Arubis AG, Shandong Jinsheng NonFerrous Group Co., Ltd., Armstrong World Industries Inc., Expeditors MCO, Expeditors International (UK) Ltd., Atlas Van Lines International, Oceanic Container Line, Inc., Oceanic Shipping & Transport GMBH, Lager, Cooper Tire & Rubber Company, Cooper Tire & Rubber Company Europe Ltd., Coty Geneva S.A., Coty US LLC, Cray Valley USA LLC, Kintetsu World Express (USA) Inc., Environmental Express Inc., Metlab Supplies Ltd., DHL Global Forwarding, Firestone Building Products Co., Wiehag GMBH, Bridgewell Resources LLC, Nippon Denko Company Ltd., Quiborax S.A., Special Metals Welding Products Company, Precision Castparts, Equipos Nucleares SA, Magnelec S.A. De C.V., Veitsch Radex GMBH & Co. OG, Viscopfan USA Inc., OOO Procasing, Taminco, Inc., United Transport Tank Containers, 3M Belgium N.V., Interbulk (Tank Containers) Ltd., Nufarm UK Ltd., Butachimie, SKF De Mexico, S.A. De C.V., SKF GMBH, UAB Neo Group, Productora De Tereftalatos De Altamira S.A. De C.V., EPU Service Center, NEK, Schlumberger Technology Corporation, Terza S.A. De C.V., Galleon International Freight Service, Groupement Ivoirien D'Industrie ET, Total Petrochemicals & Refining USA, Inc., AGCS Marine Insurance Company, Rockwood Holdings, Inc., Rockwood Lithium, Inc., Bulkhaul UK Ltd., Chemtall GMBH, Volkswagen Group of America, Inc., Zenda Dienstleistungen GMBH, Rudolph Logistik Gruppe, GMBH, Volkswagenwerk AG, Baillie Lumber Sales Co, Baillie Lumber Co., Trinseo Materials Operating S.C.A., Styron, LLC, Styron Europe GMBH, Industrias John Deere SA De C.V., Wayand GMBH, John Deere International GMBH, DOSECC Exploration Services, LLC, Global Logistics Shipping Inc., Hydrobiological Institute-Ohrid, Rayonier, Inc., SE Tylose GMBH & Co. KG, Vopak Agencies Rotterdam B.V., Dow Chemical Company, DOW Europe Gmbh, BDP International NV, Angus Chemie GMBH, Amerchol Corporation, Estee Lauder, Inoac Polytec De Mexico, Suttons International, Centre Point JB Nagar, Unicharm Corporation, Procter & Gamble Company, Westerlund, Societe Industrielle De Papeterie, Farmeko, Liberty International Underwriters, Huntsman Corporation, Johann Haltermann Ltd.,

Monument Chemical BVBA, Copperweld Bimetallics LLC, Red Electrica De Espana, Continental Insurance Company, Toyo Cotton Co., Fiber Source International Corp., Asya Kagit Matbaa Gida Ve, Tekstil Santic AS, Stemaco USA Inc., SB Enterprises, JA Lacour Company, Giorgio Gori USA Inc., Danzer UK Ltd., CNA Metals Limited, Thai Nguyen Iron and Steel Joint Stock Corporation, Oceanic Logistics Inc., Exxonmobil Chemical Company, Advanced Elastomer Systems Ltd., Exxonmobil Specialty Elastomers, Exxonmobil Petroleum & Chemical Holdings Inc., Mobil Chemical Products International, Esso Societe Anonyme Francaise, Exxonmobil Chemical Films, Exxonmobil Chemical Films Europe, Emeraude International SAS, XL Specialty Insurance Company, Cabot Corporation, Kansai Nerolac Ltd. Bilakhia House, Tokio Marine & Nichido Fire Insurance Co. Ltd., Shintech, Inc., Klockner Pentaplast, Mitsubishi Corporation, Agrinorte S.A., Itochu Plastics PTE Ltd., Unitcarga Container Line, Holzextroplast OOO, Aspen American Insurance Company, Inter-Trans Insurance, Raif Coskun Caglar, Rainier Overseas Movers Inc., Vinmar International Limited, Tricon Dry Chemicals LLC, MTS Logistics Inc., MTS Lojistik Ve tasimacilik Hizmetleri Tic A.S., Elite House LLP, Taloox Group LLC, Ocean World Lines Inc., Trinity Industries Inc., Allseas Global Logistics, Hill & Smith Ltd., Formosa Plastics Corporation, TCR Plastics, Apiexport S.A. De CV, Lamex Foods UK, Multienlaces De Transportes Internacionales SA De CV, Banks And Lloyd (Shipping) Ltd., Great American Insurance Company, Al Ahlia Insurance, Nipponkoa Insurance (Europe), Prosight Specialty Insurance, Classic American Hardwoods, Carolina Ocean Lines, Timber Connection, Palmer Timber, Naddi Motors, Link Lines Logistics, Inc., Golink Ltd., Hanna Motors, Society A-N Auto Import Export, JF Hillebrand Mexico SA, Bahrain Maritime & Mercantile International, Wisco Espanola SA, Ivan Luna Segura, Carolinas Cotton Growers Corp., Starr Indemnity & Liability Company, American Hardwood Industries, LLC. Tradelanes, Inc., Caterpillar Inc., Caterpillar SARL, Eneria S.A.S., Zeppelin Power System GMBH, Zeppelin Baumaschinen GMBH, Pon Power AS, Finning (UK) Ltd., Cargo Partner AG, Vinmar International Ltd., Caterpillar Marine Power (UK) Ltd., Esco Corporation, Kamin LLC, OMYA AB, Schuite & Schuite Druckfarben GMBH, OMYA GMBH, Kansai Altan Boya Sanayi Ve Ticaret AS, Prochem AG, OOO OMYA URAL, Blagden Specialty Chemicals Ltd., Stanley Black & Decker, Inc., Stanley Logistics Centre, Black & Decker Limited SARL, Expeditors International, DSV Air & Sea Inc., DSV Air & Sea Ltd., Weatherford International Inc., Sabic Innovative US, Sabic Innovative Plastics BV, Sabic Innovative Plastics India PVT Ltd., Sabic Innovative Plastics Mexico, Cummins Inc., Ceva Freight

Management (Mexico), CWL Mexico S De RL, Ceva Freight (UK) LTD., Crane Worldwide (UK) Ltd., Whitman Laboratories Ltd., Unitrans P.R.A. Company, Inc., Grand Medical Group, Dart Containers FCA Bahamas, Polymers International Limited, Surrey Europe SARL, Red Square Corporation, Unitrans P.R.A. Company, Inc., FTT Consulting, Grand Medical Group, Dart Containers FCA Bahamas, Polymers International Limited, Nomad Brands, Inc. LLC TLC, NCR Nederland, NCR SDC, NCR Global Solutions, Gaylord Chemical Co. LLC, IMCD Benelux N.V., ICC Chemical Corporation, Fleur De Lis Worldwide, LLC, MTS Logistics, Inc., OOO Pioneer Trade, Pioneer Polyleathers PVT Ltd., Parmar International PVT, Ltd., International Commodities, Arubis Belgium NVSA, Tyco International Ltd., Ocean World Lines Inc., OWL Belgium, Honeywell International Inc., E Rigas SA, Anheuser-Busch International Inc., Arkema Inc., Pfauth Logistiek Diensyverl, Arkema Vlissingen BV, PJ Lumber Company, Lathams Limited, Ramsay Timber, Junkers Industrier A/S, Danzer IK Ltd., Hardwood Dimensions Ltd., Timber Connections Ltd., Tzeng Long USA, Inc., Rocktenn CP, LLC, Helvetia Insurance S.A., Chevron Oronite Company LLC, Chevron Oronite SAS, Turk Ekonomi Bakasi, UAB "Jurvista", Stolt Tank Containers Germany GMBH, Stolt Tank Containers France SAS,

Plaintiffs,

v.

NSB Niederelbe Schiffahrtsgesellschaft MBH & Co. KG, as operator, of the vessel MSC FLAMINIA, Conti 11 Container Schiffahrts-GmbH & Co. KG MS MSC Flaminia, MSC Mediterranean Shipping Company S.A., BDP International, Inc.,

Defendants-Appellees,

Rubicon LLC,

Third-Party-Defendant– Appellee,

Chemtura Europe GmbH, Chemtura Corporation, Chemtura Italy S.R.L.,


Defendants–Counter-Claimants–Appellees.

The appeals in the above captioned case from an order of the United States District Court for the Southern District of New York were argued on the district court's record and the parties' briefs. Upon consideration thereof,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the District Court's decision is REVERSED in part, AFFIRMED in part and the case is REMANDED for further proceedings consistent with the opinion of this Court.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court


Catherine O'Hagan Wolfe

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit


Catherine O'Hagan Wolfe